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7 Attorneys for Defendant  
8 JPMORGAN CHASE BANK, N.A.,

9  
10 **UNITED STATES DISTRICT COURT**  
11 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

12 DARYOUSH JAVAHERI,  
13 Plaintiff,  
14  
15 v.  
16 JPMORGAN CHASE BANK, N.A.,  
CALIFORNIA RECONVEYANCE  
17 COMPANY and DOES 1-150, inclusive,  
18 Defendant.

**CASE NO.: CV-10-8185 ODW (FFMx)**

**JUDGE:** Hon. Otis D. Wright II

**ANSWER BY DEFENDANT  
JPMORGAN BANK, N.A. TO  
SECOND AMENDED COMPLAINT**

**Trial Date: None Set**  
**Action Filed: October 29, 2010**

19  
20 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

21 Defendant JPMorgan Chase Bank, N.A., (“JPMorgan”) answers the Second  
22 Amended Complaint (“SAC”) of plaintiff Daryoush Javaheri (“Plaintiff”) as follows:

23 **Introduction**

24 1. In response to paragraph 1 of the SAC, as to the allegations concerning  
25 Washington Mutual Bank, FA, JPMorgan lacks sufficient information to form a belief  
26 as to the truth of the allegations and therefore denies. As to all other allegations,  
27 JPMorgan denies the allegations contained therein.

28 2. In response to paragraph 2 of the SAC, JPMorgan lacks knowledge and

1 information sufficient to form a belief as to the truth of the allegations contained in  
2 said paragraph and therefore denies each and every allegation therein.

3 3. In response to paragraph 3 of the SAC, JPMorgan lacks knowledge and  
4 information sufficient to form a belief as to the truth of the allegations contained in  
5 said paragraph and therefore denies each and every allegation therein.

6 **Parties and Jurisdiction**

7 4. In response to paragraph 4 of the SAC, based upon information and  
8 belief, JPMorgan admits the allegations set forth therein.

9 5. In response to paragraph 5 of the SAC, JPMorgan states that it is a  
10 national banking association authorized to do business in the State of California.  
11 JPMorgan denies that it is a corporation. As to the remaining allegations, JPMorgan  
12 admits it is the current servicer and owner of the Subject Loan.

13 6. In response to paragraph 6 of the SAC, JPMorgan denies that the loan has  
14 been securitized. Except as expressly alleged, JPMorgan lacks knowledge and  
15 information sufficient to form a belief as to the truth of the allegations contained in  
16 said paragraph and therefore denies each and every allegation therein.

17 7. In response to paragraph 7 of the SAC, the allegations in this paragraph  
18 contain legal conclusions as to which no answer is necessary.

19 **Jury Trial Demand**

20 8. In response to paragraph 8 of the SAC, the allegations in this paragraph  
21 contain legal conclusions as to which no answer is necessary. To the extent that the  
22 paragraph contains allegations of fact directed against JPMorgan, JPMorgan lacks  
23 knowledge and information sufficient to form a belief as to the truth of the allegations  
24 contained in said paragraph and therefore deny each and every allegation therein.

25 **Claims for Relief**

26 9. In response to paragraph 9 of the SAC, JPMorgan denies the allegations  
27 contained therein.

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**Background Facts**

10. In response to paragraph 10 of the SAC, JPMorgan, based upon information and belief, admits the allegations therein.

11. In response to paragraph 11 of the SAC, JPMorgan lacks knowledge and information sufficient to form a belief as to the truth of the allegations contained in said paragraph and therefore denies each and every allegation therein.

12. In response to paragraph 12 of the SAC, JPMorgan admits that Plaintiff executed a Fixed / Adjustable Rate Note ("Subject Note") in the amount of \$2,660,000.00 payable to Washington Mutual Bank, FA. JPMorgan further admits Plaintiff executed the DOT. As to the remaining allegations, Defendant lacks knowledge and information sufficient to form a belief as to the truth of the allegations contained in said paragraph and therefore denies each and every remaining allegation therein.

13. In response to paragraph 13 of the SAC, JPMorgan admits the allegations contained therein.

14. In response to paragraph 14 of the SAC, JPMorgan denies the allegations therein.

15. In response to paragraph 15 of the SAC, JPMorgan admits that it is the owner and servicer of the Loan.

16. In response to paragraph 16 of the SAC, JPMorgan admits the allegations contained therein.

17. In response to paragraph 17 of the SAC, JPMorgan admits that on August 16, 2010, California Reconveyance Company ("CRC") caused to be recorded a Notice of Sale ("NOS") which set the date of the trustees' sale of the Subject Property as September 7, 2010, and that the document is the best evidence of its contents and speaks for itself.

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**FIRST CAUSE OF ACTION**

**Violation of Civil Code Section 2923.5**

18. In response to paragraph 18 of the SAC, JPMorgan re-alleges and incorporates by reference paragraphs 1 through 17 as if set forth herein.

19. In response to paragraph 19 of the SAC, JPMorgan admits the allegations contained therein.

20. In response to paragraph 20 of the SAC, JPMorgan admits that it received the subject letter, but denies that it was not working to assist the Plaintiff.

21. In response to paragraph 21 of the SAC, the allegations in this paragraph contain legal conclusions as to which no answer is necessary.

22. In response to paragraph 22 of the SAC, JPMorgan denies the allegations therein.

23. In response to paragraph 23 of the SAC, the allegations in this paragraph contain legal conclusions as to which no answer is necessary.

24. In response to paragraph 24 of the SAC, JPMorgan admits that it sent Exhibit 7 to the Complaint, but denies the remaining allegations.

25. In response to paragraph 25 of the SAC, JPMorgan admits on or about May 14, 2010, CRC caused a Notice of Default concerning the Subject Property to be recorded with the Los Angeles County Recorder's Office. Defendant admits the remaining allegations contained in paragraph 25.

26. In response to paragraph 26 of the SAC, JPMorgan denies the allegations contained therein.

**SECOND CAUSE OF ACTION**

**Wrongful Foreclosure**

27. In response to paragraph 27 of the SAC, JPMorgan re-alleges and incorporates by reference paragraphs 1 through 26 as if set forth herein.

28. In response to paragraph 28 of the SAC, JPMorgan denies the allegations therein.

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1           29. In response to paragraph 29 of the SAC, JPMorgan alleges no recorded  
2 transfer was necessary as it acquired the Loan from the FDIC pursuant to a Purchase  
3 and Assumption Agreement dated September 25, 2008.

4           30. In response to paragraph 30 of the SAC, JPMorgan denies the  
5 allegations therein.

6           31. In response to paragraph 31 of the SAC, JPMorgan denies the allegations  
7 therein.

8           32. In response to paragraph 32 of the SAC, JPMorgan admits that the  
9 Subject Note speaks for itself and is the best evidence of its contents.

10          33. In response to paragraph 33 of the SAC, JPMorgan admits that the DOT  
11 speaks for itself and is the best evidence of its contents.

12          34. In response to paragraph 34 of the SAC, JPMorgan denies the allegations  
13 therein.

14          35. In response to paragraph 35 of the SAC, JPMorgan admits that paragraph  
15 24 of the DOT speaks for itself. As to the remaining allegations, JPMorgan denies  
16 each and every allegation therein.

17          36. In response to paragraph 36 of the SAC, JPMorgan admits that on about  
18 May 3, 2010 CRC caused to be recorded a substitution of trustee. Defendant denies  
19 Deborah Brignac's signature is a forgery.

20          37. In response to paragraph 37 of the SAC, JPMorgan denies the subject  
21 signature is a forgery.

22          38. In response to paragraph 38 of the SAC, JPMorgan admits that on or  
23 about May 14, 2010, CRC caused to be recorded a Notice of Default ("NOD")  
24 regarding the Subject Property which was signed by Silvia Freeberg. As to the  
25 remaining allegations, JPMorgan admits it is described as beneficiary in the  
26 Declaration of Compliance. JPMorgan admits that Washington Mutual is described in  
27 the NOD as the original beneficiary. JPMorgan denies the loan was sold in 2006.

28          39. In response to paragraph 39 of the SAC, JPMorgan denies the allegations

1 contained therein.

2 **THIRD CAUSE OF ACTION**

3 **Quasi Contract**

4 40. In response to paragraph 40 of the SAC, JPMorgan re-alleges and  
5 incorporates by reference paragraphs 1 through 39 as if set forth herein.

6 41. In response to paragraph 41 of the SAC, JPMorgan admits the allegations  
7 contained therein.

8 42. In response to paragraph 42 of the SAC, JPMorgan denies the allegations  
9 contained therein.

10 43. In response to paragraph 43 of the SAC, JPMorgan admits that paragraph  
11 23 of the DOT speaks for itself. As to the remaining allegations, JPMorgan denies the  
12 allegations therein.

13 44. In response to paragraph 44 of the SAC, the allegations in this paragraph  
14 contain legal conclusions as to which no answer is necessary. To the extent that the  
15 paragraph contains allegations of fact directed against JPMorgan, JPMorgan denies  
16 each and every allegation therein.

17 **FOURTH CAUSE OF ACTION**

18 **No Contract**

19 45. In response to paragraph 45 of the SAC, as this claim has been dismissed  
20 with prejudice, no response to this paragraph is required.

21 46. In response to paragraph 46 of the SAC, as this claim has been dismissed  
22 with prejudice, no response to this paragraph is required.

23 47. In response to paragraph 47 of the SAC, as this claim has been dismissed  
24 with prejudice, no response to this paragraph is required.

25 48. In response to paragraph 48 of the SAC, as this claim has been dismissed  
26 with prejudice, no response to this paragraph is required.

27 49. In response to paragraph 49 of the SAC, as this claim has been dismissed  
28 with prejudice, no response to this paragraph is required.

1 50. In response to paragraph 50 of the SAC, as this claim has been dismissed  
2 with prejudice, no response to this paragraph is required.

3 51. In response to paragraph 51 of the SAC, as this claim has been dismissed  
4 with prejudice, no response to this paragraph is required.

5 52. In response to paragraph 52 of the SAC, as this claim has been dismissed  
6 with prejudice, no response to this paragraph is required.

7 53. In response to paragraph 53 of the SAC, as this claim has been dismissed  
8 with prejudice, no response to this paragraph is required.

9 54. In response to paragraph 54 of the SAC, as this claim has been dismissed  
10 with prejudice, no response to this paragraph is required.

11 55. In response to paragraph 55 of the SAC, as this claim has been dismissed  
12 with prejudice, no response to this paragraph is required.

13 56. In response to paragraph 56 of the SAC, as this claim has been dismissed  
14 with prejudice, no response to this paragraph is required.

15 57. In response to paragraph 57 of the SAC, as this claim has been dismissed  
16 with prejudice, no response to this paragraph is required.

17 58. In response to paragraph 58 of the SAC, as this claim has been dismissed  
18 with prejudice, no response to this paragraph is required.

19 **FIFTH CAUSE OF ACTION**

20 **Quiet Title**

21 59. In response to paragraph 59 of the SAC, JPMorgan re-alleges and  
22 incorporates by reference paragraphs 1 through 44 as if set forth herein.

23 60. In response to paragraph 60 of the SAC, the allegations in this paragraph  
24 contain legal conclusions as to which no answer is necessary. To the extent that the  
25 paragraph contains allegations of fact directed against JPMorgan, JPMorgan lacks  
26 knowledge and information sufficient to form a belief as to the truth of the allegations  
27 contained in said paragraph and therefore deny each and every allegation therein.

28 61. In response to paragraph 61 of the SAC, based upon information and

1 belief, JPMorgan admits the allegations therein.

2 62. In response to paragraph 62 of the SAC, JPMorgan denies the allegations  
3 contained therein.

4 63. In response to paragraph 63 of the SAC, JPMorgan denies the allegations  
5 contained therein.

6 64. In response to paragraph 64 of the SAC, JPMorgan denies the allegations  
7 contained therein.

8 65. In response to paragraph 65 of the SAC, the allegations in this paragraph  
9 contain legal conclusions as to which no answer is necessary. To the extent that the  
10 paragraph contains allegations of fact directed against JPMorgan, JPMorgan denies  
11 each and every allegation therein.

12 **SIXTH CAUSE OF ACTION**

13 **Declaratory and Injunctive Relief**

14 66. In response to paragraph 66 of the SAC, JPMorgan re-alleges and  
15 incorporates by reference paragraphs 1 through 44, and 69 through 65 as if set forth  
16 herein.

17 67. In response to paragraph 67 of the SAC, JPMorgan denies the allegations  
18 contained therein.

19 68. In response to paragraph 68 of the SAC, the allegations in this paragraph  
20 contain legal conclusions as to which no answer is necessary. To the extent that the  
21 paragraph contains allegations of fact directed against JPMorgan, JPMorgan denies  
22 each and every allegation therein.

23 69. In response to paragraph 69 of the SAC, JPMorgan denies the allegations  
24 contained therein.

25 70. In response to paragraph 70 of the SAC, the allegations in this paragraph  
26 contain legal conclusions as to which no answer is necessary. To the extent that the  
27 paragraph contains allegations of fact directed against JPMorgan, JPMorgan denies  
28 each and every allegation therein.



1 71. In response to paragraph 71 of the SAC, the allegations in this paragraph  
2 contain legal conclusions as to which no answer is necessary. To the extent that the  
3 paragraph contains allegations of fact directed against JPMorgan, JPMorgan denies  
4 each and every allegation therein, that it acted improperly or that it caused any  
5 damage to Plaintiff.

6 **SEVENTH CAUSE OF ACTION**

7 **Intentional Infliction of Emotional Distress**

8 72. In response to paragraph 72 of the SAC, as this claim has been dismissed  
9 with prejudice, no response to this paragraph is required.

10 73. In response to paragraph 73 of the SAC, as this claim has been dismissed  
11 with prejudice, no response to this paragraph is required.

12 74. In response to paragraph 74 of the SAC, as this claim has been dismissed  
13 with prejudice, no response to this paragraph is required.

14 75. In response to paragraph 75 of the SAC, as this claim has been dismissed  
15 with prejudice, no response to this paragraph is required.

16 76. In response to paragraph 76 of the SAC, as this claim has been dismissed  
17 with prejudice, no response to this paragraph is required.

18 77. In response to paragraph 77 of the SAC, as this claim has been dismissed  
19 with prejudice, no response to this paragraph is required.

20 78. In response to paragraph 78 of the SAC, as this claim has been dismissed  
21 with prejudice, no response to this paragraph is required.

22 As separate and distinct affirmative defenses to the SAC on file in this action,  
23 JPMorgan alleges as follows:

24 **FIRST AFFIRMATIVE DEFENSE**

25 **(Failure to State a Claim for Relief)**

26 1. The SAC, and each claim asserted in the SAC, fails to set forth facts  
27 sufficient to constitute a claim for relief against JPMorgan.

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1 **SECOND AFFIRMATIVE DEFENSE**

2 (Waiver)

3 2. Plaintiff is barred by the equitable doctrine of waiver from obtaining any  
4 relief as against JPMorgan.

5 **THIRD AFFIRMATIVE DEFENSE**

6 (Estoppel)

7 3. Plaintiff is estopped from asserting and/or recovering on any claims  
8 against JPMorgan by reason of Plaintiff's own acts, omissions, and conduct.

9 **FOURTH AFFIRMATIVE DEFENSE**

10 (Unclean Hands)

11 4. Plaintiff is barred by the equitable doctrine of unclean hands from  
12 asserting any claim against JPMorgan.

13 **FIFTH AFFIRMATIVE DEFENSE**

14 (Privilege)

15 5. The SAC, and each claim asserted in the SAC, is barred by virtue of the  
16 fact that all of the acts alleged to have been performed by JPMorgan were privileged  
17 or justified, if performed at all.

18 **SIXTH AFFIRMATIVE DEFENSE**

19 (Unjust Enrichment)

20 6. The SAC, and each claim asserted in the SAC, is barred by virtue of the  
21 fact that Plaintiff would be unjustly enriched to the detriment of JPMorgan.

22 **SEVENTH AFFIRMATIVE DEFENSE**

23 (Offset)

24 7. The SAC, and each claim asserted in the SAC, is barred, in whole or part,  
25 by virtue of offsets to which JPMorgan is entitled by way of Plaintiff's wrongful  
26 conduct.

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1 **EIGHTH AFFIRMATIVE DEFENSE**

2 **(Ratification)**

3 8. The SAC, and each claim asserted in the SAC, is barred by Plaintiff's  
4 ratification of the actions allegedly undertaken.

5 **NINTH AFFIRMATIVE DEFENSE**

6 **(Consent)**

7 9. The SAC, and each claim asserted in the SAC, is barred by Plaintiff's  
8 consent.

9 **TENTH AFFIRMATIVE DEFENSE**

10 **(Comparative Fault)**

11 10. Plaintiff's recovery, if any, must be reduced proportionately to the extent  
12 that any damages alleged by Plaintiff are caused and contributed to by Plaintiff's own  
13 action or actions by third parties.

14 **ELEVENTH AFFIRMATIVE DEFENSE**

15 **(Failure to Mitigate)**

16 11. Plaintiff is barred from recovering monetary damages from JPMorgan or  
17 any other relief against JPMorgan to the extent Plaintiff failed to mitigate or  
18 reasonably attempt to mitigate the damages as required by law.

19 **TWELFTH AFFIRMATIVE DEFENSE**

20 **(Right to Add Additional Affirmative Defenses)**

21 12. JPMorgan allege that they cannot fully anticipate all affirmative defenses  
22 that may be applicable to the within action. Accordingly, the right to assert additional  
23 affirmative defenses, if and to the extent that such affirmative defenses are applicable,  
24 is hereby reserved.

25 **THIRTEENTH AFFIRMATIVE DEFENSE**

26 **(Equitable Lien)**

27 13. Defendant alleges that it is entitled to an equitable lien in the amount that  
28 its loan paid off existing loans secured by the subject property.

**FOURTEENTH AFFIRMATIVE DEFENSE**

**(Good Faith Encumbrancer)**

14. Defendant alleges that its security interests in the subject property should stand, as Defendant is a good-faith encumbrancer for value which took its interests without actual or record notice of any adverse claims.

WHEREFORE, JPMorgan prays:

1. That Plaintiff takes nothing by his SAC;
2. For dismissal of the SAC against JPMorgan with prejudice;
3. For attorneys' fees as permitted by law or contract and costs of suit; and
4. For such other and further relief as the Court may deem just and proper.

Respectfully submitted,

DATED: June 28, 2011

ALVARADOSMITH  
A Professional Corporation

By: /s/ Frances Q. Jett

THEODORE E. BACON  
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DAVID J. MASUTANI  
Attorneys for Defendant  
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